SUBCOMMITTEE NO. 3 Agenda
Health, Human Services, Labor & Veteran's Affairs

Chair, Senator Elaine K. Alquist

Senator Alex Padilla
Senator Dave Cogdill

May 7, 2007

Upon Adjournment of Session

Room 3191

(Diane Van Maren)

Item	Department
4120	Emergency Medical Services Authority
0530	CA Health & Human Services Agency—Selected Issues
4280	Managed Risk Medical Insurance Board—Selected Issues
4300	Department of Developmental Services—Selected Issues
4260	Department of Health Care Services—Selected Issues
4265	Department of Public Health—Selected Issues
4400	Department of Mental Health—Selected Issues

PLEASE NOTE: Only those items contained in this agenda will be discussed at this hearing. ***Please note—the May Revision hearing for these departments will be on Tuesday, May 22nd, as noted in the Senate File.***

Issues will be discussed in the order as noted in the Agenda unless otherwise directed by the Chair. Thank you.

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A. ISSUES FOR "Vote Only" (Page 2 through Page 9)

1. Emergency Medical Services Authority—Technical Adjustment

Issue. The Subcommittee is in receipt of a Finance Letter from the Emergency Medical Services Authority (EMSA) requesting a technical reduction of $143,000 from the EMS Personnel Fund (Item 4120-001-312) to align the budget authority with the expected expenditures for 2007-08. This fund is a fee supported fund used for state administration.

Subcommittee Staff Recommendation—Approve. This is a technical adjustment and no issues have been raised.

2. Emergency Medical Services Authority—Advanced Registration for Volunteer Health Professionals

Issue. The Subcommittee is in receipt of a Finance Letter from the EMSA requesting an increase of $222,000 (Reimbursements from the Department of Public Health which are federal grant funds) to support two positions to continue to develop and implement California's "Emergency System for Advanced Registration of Volunteer Health Professionals" (ESAR-VHP). The two positions include a Health Program Specialist I and a Staff Information Systems Analyst.

The ESAR-VHP is a national effort by the Health Resources and Services Administration (HRSA) to develop a statewide computerized system that registers and credentials a wide range of health professionals before an emergency or disaster occurs. States are expected to develop their own system but follow national guidelines in order to allow for potential future integration.

The ESAR-VHP system will be used to address medical surge and pandemic flu response as well as other types of public health emergencies. The pre-registration and pre-credentialing system for medical volunteers will streamline California's response and offers a tool that can call-up, track, and deploy volunteers.

In the Budget Act of 2005, the EMSA received federal grant funds through the Department of Health Services to begin development. This funding has been utilized to conduct a Feasibility Study Report, develop operational pans with counties and operational areas, integrating into the SEMS/NIMS systems, developing core training, resolving core legal issues and conducting a pilot program which ends May 31, 2007. The two requested positions will continue this effort.

Subcommittee Staff Recommendation—Approve. It is recommended to approve this Finance Letter. No issues have been raised.

3. Emergency Medical Services Authority (EMSA)—Elimination of Price

Issue—Finance Letter. The Subcommittee is in receipt of a Finance Letter requesting to reduce the EMSA's administrative budget by a total of $21,000 (General Fund) to reflect the elimination of the "price adjustment" originally funded in the Governor's budget released on January 10, 2007. This action is simply eliminating the augmentation provided in January.

The Administration states that they are eliminating this "price adjustment" (in essence a cost-of-living-adjustment) for state support (primarily for operating expenses) to provide for expenditure increases they are requesting through the Finance Letter (spring revision) process.

Subcommittee Staff Recommendation—Approve. It is recommended to approve the Finance Letter and make the requested reduction. This is a minor adjustment to the State Support budget. No issues have been raised.

4. Emergency Medical Services Authority (EMSA)--Legal Assist for Legal Counsel

Issue. The EMSA is requesting an increase of $77,000 (Emergency Medical Services Personnel Fund) to establish a Legal Assistant position to address the increased disciplinary legal caseload regarding Emergency Medical Technicians—Paramedics (EMT-Ps). This position will provide assistance to the EMSA's existing staff counsel.

The EMSA has identified five priorities for which the disciplinary actions regarding EMT-Ps are critical to protect the public health and safety of California. These priorities are: sexual assaults; alcohol and drug abuse; fraud and dishonest; violence; and theft. This renewed focus on these areas of EMT-P discipline has created an overwhelming legal caseload for the EMSA staff counsel.

The average number of EMT-P discipline open cases in the legal office has grown from 30 in 2004-05 to 74 in 2005-06 which is an increase of 146 percent. The type of legal cases currently being reviewed for possible discipline include paramedics who are: (1) acting outside of medical control; (2) failure to follow procedures; (3) acts of negligence; or (4) the identification of paramedics who are in violation of Health and Safety Code Section 1798.200 (threats to public heath and safety).

The EMSA states that without the additional legal resources, the timely processing of cases will continue to backlog and California will be unable to assure the safety of its citizens who require emergency medical care and transport.

Subcommittee Staff Recommendation—Approve. It is recommended to approve this proposal. No issues have been raised.

5. CA Medical Assistance Commission (CMAC)—Elimination of Price

Issue—Finance Letter. The Subcommittee is in receipt of a Finance Letter requesting to reduce the CMAC's administrative budget by a total of $4,000 (General Fund) to reflect the elimination of the "price adjustment" originally funded in the Governor's budget released on January 10, 2007. This action is simply eliminating the augmentation provided in January.

The Administration states that they are eliminating this "price adjustment" (in essence a cost-of-living-adjustment) for state support (primarily for operating expenses) to provide for expenditure increases they are requesting through the Finance Letter (spring revision) process.

Subcommittee Staff Recommendation—Approve. It is recommended to approve the Finance Letter and make the requested reduction. This is a minor adjustment to the State Support budget. No issues have been raised.

6. Managed Risk Medical Insurance Board (MRMIB)—Elimination of Price

Issue—Finance Letter. The Subcommittee is in receipt of a Finance Letter requesting to reduce the MRMIB's administrative budget by a total of $8,000 (General Fund) to reflect the elimination of the "price adjustment" originally funded in the Governor's budget released on January 10, 2007. This action is simply eliminating the augmentation provided in January.

The Administration states that they are eliminating this "price adjustment" (in essence a cost-of-living-adjustment) for state support (primarily for operating expenses) to provide for expenditure increases they are requesting through the Finance Letter (spring revision) process.

Subcommittee Staff Recommendation—Approve. It is recommended to approve the Finance Letter and make the requested reduction. This is a minor adjustment to the State Support budget. No issues have been raised.

7. Managed Risk Medical Insurance Board (MRMIB)—Payment Error Rate

Issue. The Subcommittee is in receipt of a Finance Letter for the Managed Risk Medical Insurance Board (MRMIB) requesting a total increase of $216,000 ($76,000 General Fund) to support two Auditor positions.

The federal Center for Medicare and Medicaid (CMS) directed the MRMIB in February 2007 on their implementation of the "Federal Medicaid Payment Error Rate Measures (PERM) regulations. These federal regulations require all states to implement new audit procedures for the State's Children's Health Insurance Program (S-CHIP) funds (known as the Healthy Families Program in California).

Under PERM, reviews will be conducted in three areas: (1) fee for services; (2) managed care; and (3) program eligibility. The results of these reviews will be used to produce the national program's error rates, as well as state-specific error rates. States are responsible for measuring program eligibility and for coordination with federal CMS hired national contractors on the measures of other areas.

PERM also requires the use of an independent auditor contract in addition to duties performed by the MRMIB. Costs for this independent auditor will be reflected in the upcoming May Revision estimate.

Subcommittee Staff Recommendation—Approve. It is recommended to approve the Finance Letter. No issues have been raised. The adjustment is needed in order to meet federal requirements.

8. CA Health & Human Services (CHHS) Agency—Community Choices

Issue. The California Health and Human Services (CHHS) Agency is requesting an increase of $900,000 (federal grant funds—Real Choice Systems Transformation Grant) to: (1) fund a Staff Services Manager II position to serve as a project director of the California Community CHOICES program; and (2) fund an interagency agreement with Sonoma State University to continue work in progress .

The purpose of the position is to oversee the grant's implementation over a five-year period and coordinate statewide activities related to the grant, all of which support implementation of the Olmstead decision in California. The position will be required to manage complex statewide activities, requiring a high level of expertise in long-term care issues. The federal grant requires that a full-time position be dedicated to grant oversight.

The CHHS Agency states that they are in the strategic planning process which should be completed soon. Upon approval of the strategic plan, the project director will begin oversight and administration of project implementation, which will outline specific goals and timelines for the term of the project.

Background—California Community CHOICES Project. The purpose of this project is to help build the state's long-term care system infrastructure and to increase the capacity of the home and community-based services system.

The federal government has awarded California a five-year, $3 million "Real Choice Systems Transformation" grant. The CHHS Agency partnered with Sonoma State University and the CA Institute on Human Services to oversee the grant's strategic planning and policy development components.

The grant is to address the following three goals: (1) improved access to long-term support services; (2) transformation of information technology systems; (3) creation of a system that more effectively manages the funding for long-term supports that promote community living options.

Subcommittee Staff Recommendation—Approve. It is recommended to approve this proposal. No issues have been raised.

9. Department of Mental Health-- Capital Outlay for the State Hospitals

Issues. The Department of Mental Health is proposing an increase of $10.8 million ($3.3 million General Fund and $7.5 million Public Buildings Construction Funds—bonds funds) to prepare preliminary plans and working drawings, and begin construction on a variety of projects to maintain the existing State Hospitals. Each of the requested capital outlay projects is shown in the table below. (The Metropolitan State Hospital Fence Project is under the items to discuss section of this Agenda, below).

Table: Capital Outlay Projects for State Hospitals

Project Title	2007-08	Source of Funding
Metropolitan State Hospital: • Telecommunications Upgrade (all phases)	$353,000	General Fund
Metropolitan State Hospital: • Construction of New Kitchen & Remodel Satellite Kitchens (construction)	$1.432 million $7.5 million	General Fund Bond Funds
Napa State Hospital: • Install A Liquid Oxygen System (all phases)	$122,000	General Fund
Napa State Hospital: • Construction of New Kitchen & Remodel Satellite Kitchens (working drawings)	$761,000	General Fund
Atascadero State Hospital: • Kitchen Study	$200,000	General Fund
Patton State Hospital: • Construction of New Kitchen & Remodel Satellite Kitchens (working drawings)	$463,000	General Fund
Total	**$10.8 million** ($3.3 million) ($7.5 million)	**Total Funds** General Fund Bond Funds

A brief description of each of these projects by State Hospital follows:

- Metropolitan State Hospital—Hospital Telecommunications Project. Currently, the telecommunications infrastructure is at maximum capacity. This proposal would increase the fiber optic cabling, hubs, switches and other aspects to provide a telecommunications system that is capable of transmitting to ensure appropriate. No issues have been raised by the Legislative Analyst's Office (LAO) or Subcommittee staff.

- Metropolitan State Hospital—Construct New Kitchen and Remodel Satellite Kitchens. This project would construct a new single story Central Kitchen Facility and would renovate six existing satellite kitchens and dining facilities. This includes new kitchen equipment, high capacity food storage, receiving dock, cook/chill system, an emergency generator and other design features for a Central Kitchen Facility. The satellite kitchen

improvements include new kitchen equipment, seating capacity and other related items. The project does still have about $5.2 million in existing current-year authority for the project. The budget year request does take this into consideration. No issues have been raised by the Legislative Analyst's Office (LAO) or Subcommittee staff.

- Napa State Hospital—Install Liquid Oxygen System. This project would provide for the installation of a 1,500 gallon bulk liquid oxygen storage tank and associated electrical, mechanical and structural components to be installed. The bulk storage tank will replace the existing out-dated system. No issues have been raised by the Legislative Analyst's Office (LAO) or Subcommittee staff.

- Napa State Hospital—Construct New Kitchen and Remodel Satellite Serving Kitchens. This project would provide for "working drawings" for a 29,000 square foot Central Kitchen with cook/chill food preparation system and all dietary support systems. This proposal would also remodel and upgrade all 14 satellite kitchens and dining rooms to meet requirements of licensing. The project has been divided into two separate funding sources—Bond Funds and General Fund support.

  The new main kitchen component is to be Bond funded. The $20.7 million (Bond Funds) appropriation for this was in the Budget Act of 2006.

  The 14 satellite kitchens are to be funded using General Fund support. In the Budget Act of 2006, $598,000 (General Fund) was appropriated for preliminary plans. Funding for the working drawings is requested for 2007-08 in the amount of $761,000 (General Fund). The construction phase will be proposed in 2008-09 and is estimated to be $10.6 million.

- Atascadero State Hospital—Kitchen Study. These funds would be used to conduct a study to better understand whether the DMH should remodel the existing facility or construct a new one. The study would address all dietary support facility needs, including installation of a cook/chill food preparation system. No issues have been raised by the Legislative Analyst's Office (LAO) or Subcommittee staff.

- Patton State Hospital—Construct New Kitchen and Remodel Satellite Serving Kitchens. This proposal would develop the "working drawings" for the construction of a 29,000 square foot Central Kitchen, as well as the satellite kitchens. No issues have been raised by the Legislative Analyst's Office (LAO) or Subcommittee staff.

Subcommittee Staff Recommendation. It is recommended to approve these proposals since they are needed to maintain state licensure, as well as fire, life and safety requirements. No issues have been raised.

10. Department of Developmental Services—Finance Letter for Capital Outlay

Issue. The Subcommittee is in receipt of a Finance Letter requesting a reduction of $191,000 (General Fund) to reflect updated estimates of the cost for preliminary plans and working drawings for: (1) the Fairview Developmental Center, including installation of personal alarms (used to protect employees and residents) and installation of air conditioning at the school and activity center on the campus; and (2) the Porterville Developmental Center, including the installation of personal alarms.

Subcommittee Staff Recommendation. It is recommended to approve the Finance Letter. No issues have been raised. Projected expenditures are just being updated.

B. ISSUES FOR DISCUSSION--Department of Developmental Services

1. Need for Clinic Services & Comprehensive Health Care Services for People with Developmental Disabilities

Prior Subcommittee Hearing—April 9th—and Follow-Up for Today. In the April 9th hearing, the Subcommittee received testimony from consumers and their family members, local health plans from the Bay Area—the Santa Clara Family Health Plan, and Alameda Alliance for Health--, the three Bay Area Regional Centers and many other interested constituencies regarding the broad provision of health care services, including health, behavioral health and dental, to individuals transitioning from Agnews Developmental Center.

After this informative and compelling testimony, the Subcommittee took the following actions:

(1) Increased the Regional Centers Operations budget by $503,000 ($126,000 General Fund) and 4 positions for the three Bay Area Regional Centers for them to hire three Chief Health Care Community Specialists and one Assistant Health Care Community Specialist. These resources are critical to ensure that all responsible parties are providing appropriate, high quality health care services to consumers.

(2) Adopted trailer bill language to ensure the continuity of consumer's health care, by requiring the Secretary of the Health and Human Services Agency to verify that the Department of Developmental Services and the Department of Health Care Services have established protocols to ensure accountability within the Administration, as well as at the community level between the Regional Centers and the health plans participating in the Medi-Cal Program who will be providing services to consumers.

The Subcommittee extensively queried the Administration regarding their intent to continue to operate the Agnews Developmental Center Outpatient Clinic beyond the Administration's projected closure date of Agnews (i.e., June 30, 2008). Public testimony strongly urged continuation of the comprehensive health care services provided at this site.

Since the Administration needed to conduct further research as to the options available for continuation of these services, the Subcommittee directed the Administration to provide additional information, such as clarification of state licensure requirements, the potential for operation after June 30, 2008 and related matters for this May 7th hearing.

Senator Alquist, as the Chair of the Subcommittee, also directed Subcommittee staff to review options for increasing the existing health care services capacity in the community for people with disabilities since data from the Agnews Outpatient Clinic showed the need for services for consumers living in the surrounding community as well.

In addition, the Subcommittee received testimony from the Santa Clara Family Health Plan and the Alameda Alliance for Health who are two of the three Bay Area health plans that the Department of Developmental Services and the Department of Health Care Services are working with to provide a *permanent* "health care home" for transitioning Agnew's residents.

During the hearing, the Department of Health Care Services (DHCS) testified that it was their intent to reimburse the above health care plans at an initial *interim rate* (not yet established), the health care plans would then provide utilization data regarding the health care services provided, and the DHCS would then "settle-up" the remaining costs. It should be noted that though a verbal description was provided, no written information has been provided and no existing statutory authority can be cited for this mechanism.

Background—Agnews Developmental Center Outpatient Clinic. In March 2006, the DDS expanded the Agnew's license to provide outpatient medical services to individuals with developmental disabilities who reside in the community (both individuals who have transitioned from Agnews, as well as other individuals with developmental disabilities living in the surrounding area). Medical staff from Agnews is used to provide the services.

As discussed in the April 9th hearing, the outpatient clinic at Agnews has provided over 230 services to a total of 185 consumers. The most frequently uses services are dental (accessed 128 times), primary medical care, psychiatry and neurology.

Background--Individualized Health Plan for Each Consumer. As part of their Individual Program Plan (IPP) process prior to transitioning from Agnews, each Agnews' resident will receive a comprehensive nursing and risk assessment which is comprised of over 60 health-related items. This assessment is then used to develop a Health Transition Plan that is incorporated into the IPP.

The Health Transition Plan specifically states how each health need will be met following transition from Agnews, as well as the provider of each service.

Background—Agnews Developmental Center Closure. The plan to close Agnews Developmental Center was developed over a three-year period and formally submitted to the Legislature in January 2005. Enabling legislation to support the implementation of critical elements of the plan has been enacted, including Assembly Bill 2100 (Steinberg), Statutes of 2004, Senate Bill 962 (Chesbro), Statutes of 2005, Senate Bill 643 (Chesbro), Statutes of 2005, and Assembly Bill 1378 (Lieber), Statutes of 2005.

The Agnews Developmental Center Plan closure is *different* than the two most recent closures of Developmental Centers—Stockton DC in 1996 and Camarillo DC in 1997—both of which resulted in the transfer of large numbers of individuals to other state-operated facilities**.** In contrast, the Agnews Plan relies on the development of an improved and expanded community service delivery system in the Bay Area that will enable Agnew's residents to transition and remain in their home communities.

Subcommittee Staff Recommendation. At the direction of the Chair, the following recommendations are proposed:

(1) Adopt trailer bill language to have the DDS continue operation of the Agnews Outpatient Clinic until the state disposes of the Agnews property in order to continue the continuity of care for consumers. (See Hand Out for proposed language.)

(2) Adopt Budget Bill Language (Item 4300-101-0001) to utilize funds appropriated for the Wellness Initiative for the DDS to purchase two Mobile Clinics which will be specifically outfitted to provide a range of health and medical services, as determined by the DDS in working with constituency groups as deemed appropriate. The DDS may purchase these Mobile Clinics using a competitive process but is to be exempted from public contract code due to the need to ensure the protection of public health and welfare. (See Hand Out for proposed language.)

(3) Adopt placeholder Trailer Bill Language to codify the Department of Health Care Services verbal commitment to the Subcommittee and the local health plans regarding the reimbursement to be provided under the Medi-Cal Program for services to be provided for individuals transitioned from Agnews to the community. (See Hand Out for proposed placeholder language.)

Regarding the future use and operation of the Mobile Clinics, Subcommittee staff notes that that the clinics *could be* eventually granted to (1) a non-profit entity, such as a Regional Center and/or the three Bay Area health plans (all are non-profit entities); (2) a County (i.e, Santa Clara, Alameda and/or San Francisco) to be operated as a Federally Qualified Health Care (FQHC) Clinic to obtain cost-based reimbursement as recognized by the federal government; and/or (3) used under Sonoma Developmental Center's license and be operated by state employees (including Agnews employees). There are many options available that need to be further explored but offer benefits to the community and can be made workable from a fiscal perspective. A community-state partnership is needed and is necessary to make all of this work.

Subcommittee staff notes that through the Budget Act of 1998 (Change Book issue #202), the Legislature first appropriated $1 million (General Fund) to the DDS for the Wellness Initiative. The DDS was provided these funds for the purposes of improving the health, welfare and safety of people with disabilities living in the community. Since this time, the DDS has had the ability to utilize these funds as deemed appropriate to meet a wide variety of identified needs, such as determining best practices for meeting nutritional needs for individuals or for providing dental services, as well as many, many other uses.

These Wellness Initiative funds have been continued as part of the budget since this time. Subcommittee staff has been informed by the DDS that there presently are no identified projects as yet for 2007-08 for the expenditure of these funds. **As such, they are available for this purpose.**

2. Proposed Modifications to Reporting Information-- Agnews DC Closure

Prior Subcommittee Hearing and Subcommittee Staff Recommendation. In the April 9th Subcommittee hearing, interest in capturing additional information regarding the Agnews transition was expressed. As such, it is recommended to add the following provisions to existing Budget Bill Language, which was originally crafted in 2005. (The proposed additions are noted with underlining.)

"The state Department of Developmental Services shall provide the fiscal and policy committees of the Legislature with a comprehensive status update on the Agnews Plan, on January 10, 2008 and May 15, 2008, which will include at a minimum all of the following:

(a) A description and progress report on all pertinent aspects of the community-based resources development, including the status of the Agnews transition placement plan.

(b) An aggregate update on the consumers living at Agnews and consumers who have been transitioned to other living arrangement, including a description of the living arrangements (model being used) and the range of services the consumers receive.

(c) An update to the Major Implementation Steps and Timelines.

(d) A comprehensive update to the fiscal analyses as provided in the original plan.

(e) An update to the plan regarding Agnew's employees, including employees who are providing medical services to consumers on an outpatient basis, as well as employees who are providing services to consumers in residential settings.

(f) Specific measures the state, including the Department of Developmental Services and the Department of Health Care Services, is taking in meeting the health, mental health, medical, dental, and over all well-being of consumers living in the community and those residing at Agnews until appropriately transitioned in accordance with the Lanterman Act.

D. ISSUES FOR DISCUSSION—Health Issues (Both Departments)

1. Medi-Cal Managed Care—Need to Improve Services to Aged, Blind & Disabled Populations

Issue. Under the support and direction of the California Healthcare Foundation, a comprehensive report prepared by several researchers was **released in November 2005** entitled: "Performance Standards for Medi-Cal Managed Care Organizations Serving People with Disabilities and Chronic Conditions".

This **92 page report** was the outcome from various workgroup discussions convened during 2005 when discussions were at the forefront regarding improving Medi-Cal services to people who happen to be in the aged, blind or disabled categories of the Medi-Cal Program (i.e., Fee-For-Service or Medi-Cal Managed Care). **Core objectives at this time included the following recommendations for the Administration to pursue:**

- Develop performance standards and measures to foster improvements in quality of care for people with disabilities and chronic illness;
- Develop recommendations for how the DHS and other departments can support improvements in quality of care for this population;
- Develop recommendations for monitoring contract compliance; and
- Develop a tool to assess managed care plan readiness to serve people with disabilities.

The report recognized the need for considerable analysis and continued workgroup discussions around key topics, including: Accessibility; Provider Networks; Enrollment and Member Services; Benefit Management; Care Management; Coordination of Carved-Out and "Linked" Services; Quality Improvement; and Performance Measurement. ***Examples* of recommendations from the report included the following:**

- Conduct initial screen to identify immediate access and medical needs;
- Provide materials in alternative formats upon request;
- Provide assistance with navigating managed care;
- Expand cultural competency and diversity training requirements;
- Expand definition of "access";
- Determination of medical necessity should take into account maintenance of function;
- Broaden requirements to provide out-of-network services;
- Conduct quality improvement activities to address needs of people with disabilities and multiple chronic conditions;

The Administration was to craft a written analysis which responds to the report's recommendations. However, though numerous requests for this information have been made by constituency groups and Members of the Legislature, no information has been forthcoming to date.

Since this information has not been forthcoming, it has been unclear as to the Administration's intent and commitment regarding the provision of services to people with disabilities within the Medi-Cal Program (Managed Care and Fee-for-Service).

Background—Information Regarding People with Disabilities Enrolled in Medi-Cal. In California there are **over 1 million people with disabilities enrolled in the Medi-Cal Program.** People who qualify for Medi-Cal based on disability (SSI determination) are very heterogeneous; there is no one category that can be labeled as "the disabled".

People with disabilities have a wide variety of physical impairments, mental health, and developmental conditions, and other chronic conditions. In addition, as noted by the California Healthcare Foundation, these individuals:

- Are increasing in numbers and account for a growing percentage of Medi-Cal expenditures;
- Have limited access to primary and preventive care services;
- Use a complex array of specialty, ancillary, and supportive services;
- Are much more likely to have multiple chronic or complex conditions;
- Require *personalized* durable medical equipment;
- Often need additional supports to access services (e.g., transportation, interpreters, and longer appointments); and
- Experience a dizzying array of physical, communication, and program barriers.

About 20 percent (280,000 or so people) of the Medi-Cal enrollees with disabilities are enrolled in the Medi-Cal Managed Care Program. The vast majority of those enrolled in managed care reside in one of the five, not-for-profit County Organized Healthcare Systems (covering eight counties). County Organized Healthcare Systems (COHS) require the "mandatory" enrollment of all Medi-Cal individuals. However, some people with disabilities who reside in counties with the Two-Plan Model (twelve urban counties) or Geographic Managed Care Model (Sacramento and San Diego) have voluntarily enrolled in Managed Care.

Questions. The Subcommittee has requested the Medi-Cal Program to respond to the following questions.

1. Medi-Cal, Please provide a date as to when this information will be provided.

2. Medi-Cal, How is the state presently ensuring that people with disabilities are receiving appropriate health care under the current system, including individuals receiving services in the Medi-Cal Fee-For-Service Program?

3. Medi-Cal, When will additional work be completed in this area? (The Medi-Cal Program was provided resources in the Budget Act of 2005 and 2006 for specific follow-up work in this area.)

2. Medi-Cal Fee-For-Service Rate Report was Due March 15, 2007

Issue. The Administration was to provide the Legislature with a report by no later than March 15, 2007 regarding a comparison of Medi-Cal Fee-For-Service reimbursement rates to the reimbursement rates paid under the federal Medi-Care Program, *excluding* rates applicable to dental services, pharmacy, federally qualified health clinics and rural clinics, and health facilities. These entities were excluded for a variety of reasons.

The intent of the report was to have an up-to-date comparison of reimbursement rates in core procedure codes, such as physician's services, office visits, and many others.

Where applicable, the report was to provide an estimate of the cost for increasing all Medi-Cal reimbursement rates that are comparable to the federal Medicare Program rates, up to a minimum of 50 percent of the rate paid under the federal Medicare Program. This estimate was to take into account increases necessary to keep managed care rates comparable.

In addition, for those procedures reimbursed only under the Medi-Cal Program, a prioritized listing of services and procedure codes, as determined by the DHS, that may merit adjustment based on a review by the department or a contractor, was to be included in the report.

In response to Subcommittee staff inquiries regarding the status of the report, Administration representatives stated that changes to a draft report needed to be done to ensure clarity regarding the factual contents of the report. **However, a definitive date as to when the report will be provided to the Legislature has not yet been obtained.**

Background—Budget Act of 2006. Through passage of the Omnibus Health Trailer legislation which accompanied the Budget Act of 2006, the Legislature provided $300,000 ($150,000 General Fund) for the DHS to hire a contractor and report back to the Legislature by no later than March 15, 2007 regarding a report on Medi-Cal Fee-For-Services Rates.

The language contained in the trailer bill regarding the contents and timing of the report was voted out of the Joint Budget Conference Committee on a 6-0 vote and was agreed to by the Administration.

Questions. The Subcommittee has requested the DHS to respond to the following questions.

1. DHCS, When will the Legislature specifically be provided the report?

3. Expansion of the Newborn Hearing Screening Program

Issue. The Department of Health Care Services (DHCS) is requesting an increase of $1.9 million ($1.5 million General Fund) to expand the existing Newborn Hearing Screening Program. All of these funds would be used for external contracts.

This augmentation is requested in response to Assembly Bill 2651 (Jones), Statutes of 2006, which requires that all general acute care hospitals with licensed perinatal services participate in the Newborn Hearing Screening Program, and screen the hearing of all newborns delivered in these facilities.

Of this requested increase: **(1)** $1.5 million would be used to contract with the Hearing Coordination Centers; **(2)** $300,000 would be used to purchase services to track and monitor all infants participating in the Newborn Hearing Screening Program; and **(3)** $100,000 (one-time only) would be used to revise, produce and distribute informational and educational materials used by the program. **The ongoing cost components are described below:**

- $1.5 million for the Hearing Coordination Centers (Centers). The Centers are presently funded at $2.0 million to provide existing services. The $1.5 million in additional funding would support staffing and infrastructure to provide technical assistance and consultation to 100 new hospitals to (1) familiarize them with the Newborn Hearing Screening Program inpatient screening provider standards; (2) assist them in developing a program that meets the standards; (3) review and assist them in developing a program that meets the standards; and (4) perform site visits to assure that program standards are being met.

- $300,000 for Tracking and Monitoring. This component is presently budgeted at $300,000 per year for data management. An increase of $300,000 (becomes $225,000 in the out-years) is proposed for tracking and monitoring based on the number of hospital facilities, outpatient screening providers, users, and infants screened. With the expansion there will be almost twice as many hospitals and over 137,000 additional infants.

Background—Newborn Hearing Screening Program. The purpose of this program, originally established through Chapter 310, Statutes of 1998, is to provide a comprehensive coordinated system of early identification and provision of appropriate services for infants with hearing loss. The major focus of the program is to assure that every infant, who does not pass a hearing test, is linked quickly and efficiently with the appropriate diagnostic and treatment services and with the other intervention services needed for the best possible outcome.

Presently, all California Children's Services (CCS) approved hospitals offer hearing screenings to all newborns born in their hospitals. Assembly Bill 2651 (Jones), Statutes of 2006, expands this screening to all general acute care hospitals with licensed perinatal services. About 400,000, or over 70 percent of the total births in California, are presently served. Funding is provided to separately reimburse hospitals for the testing of infants whose care is paid for by the Medi-Cal Program.

The program also uses geographically-based Hearing Coordination Centers (Centers)—four of them in five services areas. **The function of the Centers includes the following:**

- Assisting hospitals to develop and implement their screening programs;
- Certifying hospitals to participate as screening sites;
- Monitoring programs of the participating hospitals;
- Assuring that infants with abnormal hearing screenings receive necessary follow-up including re-screening; and
- Providing information to families and providers so they can more effectively advocate with commercial health plans to access appropriate treatment.

Research shows infants with hearing loss, who have appropriate diagnosis, treatment and early intervention services initiated before six months of age, are likely to develop normal language and communication skills.

Subcommittee Staff Recommendation--Approved. No issues have been raised regarding this issue. It is recommended to approve as proposed.

Questions. The Subcommittee has requested the Administration to respond to the following questions.

1. DPH, Please provide a brief overview of the program and the need for the budget request.

4. Dispensing of Hearing Aids within the Medi-Cal Program

Issue. The Subcommittee is in receipt of a request to compel the Medi-Cal Program to improve access to hearing aids for Medi-Cal enrollees by contracting, on a bid or negotiated basis with a hearing aid purchasing intermediary.

Existing state statute, as contained in Section 14105.3 of Welfare and Institutions Code, provides the Medi-Cal Program with among other things, the ability to contract with manufacturers, distributors, dispensers, or suppliers of appliances, durable medical equipment, medical supplies, and other product-type health care services. However to-date, the Medi-Cal Program has not fully exercised their authority as provided under the statute. Specifically, the Medi-Cal Program could contract (including multiple contracts) either through a competitive bid process, or on a negotiated basis, to purchase hearing aids and has not.

In discussions with the Department, it is evident that savings could be achieved within the program by contracting to purchase hearing aids. It would leverage the state's volume purchasing capability under the Medi-Cal Program and improve access to hearing aids and hearing aid related services. The Department has been hesitant to contract for hearing aids primarily because it is a small area in relation to all of the other medical product/supply areas. It should be noted that the Department was provided positions through the Budget Act of 2002, when Section 14105.3 was amended to provide them with broader contracting authority.

There is interest by hearing aid provider businesses to have the DHCS work with them to contract with the state to purchase hearing aids in quantity at reduced prices. As such, they are requesting a modification to existing statute, as shown below, to compel the DHCS to work towards this effort. The proposed modification to existing statute would be as follows:

> Amend (underlined section) Section 14105.3 (b) of Welfare & Institutions Code as follows:
>
> (b) The department may enter into exclusive or nonexclusive contracts on a bid or negotiated basis with manufacturers, distributors, dispensers, or suppliers of appliances, durable medical equipment, medical supplies, and other product-type health care services and with laboratories for clinical laboratory services for the purpose of obtaining the most favorable prices to the state and to assure adequate quality of the product or service. This subdivision shall not apply to pharmacies licensed pursuant to Section 4080 of the Business and Professions Code.
>
> (1) In order to ensure and improve access of Medi-Cal hearing aid beneficiaries to both hearing aid appliances and provider services, and to assure that the state obtains the most favorable prices, the department shall by January 1, 2008 enter into exclusive or nonexclusive contracts on a bid or negotiated basis for purchasing hearing aids.

Background—Hearing Aids. Medi-Cal's hearing aid professional services may include assessment, exam, fitting, screening, evaluation and impressions. Prior treatment authorization is required for the purchase of hearing aids, and professional services.

Medi-Cal reimbursement for hearing aids, accessories and related services are to be paid at the usual charges made to the general public, not to exceed a maximum level. For a provider to be reimbursed by Medi-Cal, a "Treatment Authorization Request" (TAR) must be submitted and approved by a Medi-Cal Field Office. Often times when a Medi-Cal provider must submit a TAR for payment, they encounter delayed payment or may be inadvertently denied payment. This occurs because the Medi-Cal Fiscal Intermediary (reimbursement and claims processing system) has no access to the TAR system. As such, there can be delays and problems with reimbursement.

Some constituency interests believe this has been a contributing factor to the drop-off in hearing aid providers. Based on information obtained from the Medi-Cal Program, between 2001 and 2006, the number of Medi-Cal Program and California Children's Services (CCS) Program hearing aid providers (and audiologists) will to utilize these two public programs has deteriorated.

Subcommittee Staff Recommendation—Adopt Trailer Bill Language. Based on information obtained from constituency groups, there does appear to be compelling reasons for the Medi-Cal Program to seek contracts in this area. The proposed trailer bill language would require the DHS to proceed with these efforts. Though existing statute does enable the DHCS to contract now, there has been reluctance on their part to venture into the smaller product areas.

Questions. The Subcommittee has requested the Medi-Cal Program to respond to the following question.

1. Medi-Cal, Please comment regarding the potential for contracting for hearing aids.

5. Establishing the Department of Public Health—Follow Up to March Hearing

Issues--Prior Subcommittee Hearing Follow-Up & Finance Letter. In the March 5th Subcommittee hearing, considerable discussion was had regarding the division of the Department of Health Services into two separate departments pursuant to Senate Bill 162 (Ortiz), Statutes of 2006. **The key issues discussed in this March 5th hearing were as follows:**

- The proposed organizational structure of the new Department of Public Health (DPH), including the newly proposed "programmatic centers", as well as all Administrative functions;
- Clarification of positions to be established and reclassified as part of the new proposed structure for the DPH;
- The costs associated with the reorganization that must be absorbed; and
- The need for overall transparency in the establishment of the new DPH.

At the March 5th hearing, the Subcommittee **(1)** questioned the costs to be incurred due to the split; **(2)** directed staff to craft fiscal accountability language; and **(3)** directed staff to see if any special fund resources would be available (without fee increases) to support some of the positions being transferred to the DPH. **Therefore, today's hearing will provide follow-up recommendations for these areas.**

The Subcommittee is *also* in receipt of a Finance Letter which proposes a series of adjustments to the Governor's January budget. The Administration states that the proposed adjustments are technical corrections to generally **(1)** realign programs between the two departments; **(2)** adjust the fiscal impact of redirecting and reclassifying positions; **(3)** reallocating distributed administration costs relative to the split; (4) make adjustments for salary savings and related matters. **The technical Finance Letter adjustments are as follows.**

- Aligns position calculation adjustments to salary savings. The Department of Health Care Services salary savings position level will now be 6.6 percent (was 8.2 percent). The Department of Public Health's salary savings position level was at 5.1 percent and it will now be at 6.6 percent—the same level for both departments. The Administration states that salary savings calculations should have been applied equitably to the department's position authority, and this technical correction will do that. Therefore, 51.5 positions, overall, were reduced from DPH to reflect this change.
- Makes adjustments for the federal pass-through of funds from the Department of Health Care Services to the Department of Public Health. The Administration states that these adjustments will ensure that federal Medicaid (Title XIX Funds) can be received and expended by the DPH. Additionally, it will ensure that federal Title V funds, which are awarded to the DPH, can be received and expended by the DHCS.
- Makes adjustments for reimbursement authority to allow the Department of Health Care Services to enter into Interagency Agreements with the Department of Public Health for information technology and audit services.
- Makes a correction to reflect that the Seasonal Agricultural Worker and the Rural Health

Services clinic programs are within the Department of Health Care Services, not within the DPH.

- Makes corrections for the payment of rent for the Department of Public Health.
- Reflects a correction for a baseline error within the Child Health Safety Fund for the Department of Public Health.

The Legislative Analyst's Office (LAO) reviewed the Finance Letter adjustments, along with Subcommittee staff, and no issues have been raised; however, the Administration is requesting a technical adjustment to their Finance Letter as discussed below.

Background--Summary of the Organizational Structure for the New Department of Public Health: As discussed in the March 5th Subcommittee hearing, there are two key components to the proposed organizational structure of the new department—**(1)** creation of new "programmatic centers" and **(2)** development of a traditional administrative structure, for example a Director's Office, personnel, and fiscal, that does not now presently exist.

As part of the creation of the new department, the Administration has reorganized its structure into five "programmatic centers". This programmatic center structure was *not* part of the enabling legislation**.** The Administration contends that this proposed structure actually flattens the organization overall and will lead to more direct accountabilities.

Proposed Programmatic Organization ("Centers")	Positions Added for Each
1. Center for Chronic Disease Prevention & Health Promotion • Chronic Disease & Injury Control • Environmental & Occupational Disease Control	**6 Total Positions** Deputy Director Assistant Deputy Staff Services Manager Associate Analyst Support Staff (2)
2. Center for Infectious Disease • Office of AIDS • Communication Disease Control	**6 Total Positions** Deputy Director Assistant Deputy Staff Services Manager Associate Analyst Support Staff (2)
3. Center for Family Health • Women, Infant & Children Supplemental Food • Maternal, Child, and Adolescent Health • Genetic Disease	**4 Total Positions** Deputy Director Assistant Deputy Staff Services Manager Support Staff
4. Center for Environmental Health • Food, Drug & Radiation Safety • Drinking Water & Environmental Management	**6 Total Positions** Deputy Director Assistant Deputy Staff Services Manager Associate Analyst Support Staff (2)
5. Center for Healthcare Quality • Licensing & Certification • Laboratory Field Services	**3 Total Positions** Deputy Director Assistant Deputy Support Staff
Total Positions for the Centers	**25 Positions**

In addition to the above programmatic centers, the new DPH needs to establish an administrative structure, including an Office of the Director, Information Technology Services, Office of Legal Services, Internal Audits, Personnel Administration, Office of Civil Rights, Fiscal Management, and other related administrative functions.

In order to establish the administrative structure, a total of 57 positions are to be used. The chart below provides a summary of the positions to be reconfigured.

Department of Public Health: Summary of Positions for Restructuring	**Positions**
1. New Programmatic Centers	25 Positions
2. Administrative Structure for New Dept.	57 Positions
Total Positions to be Reconfigured	**82 Positions**

Subcommittee Staff Recommendation. **First**, it is recommended to approve the Administration's Finance Letter that makes a series of technical adjustments to their January budget to divide the department as required. **Second**, it is recommended to adopt a technical funding adjustment to the Administration's Finance Letter which they are requesting. Specifically, the federal funding and reimbursement funds amounts need to be adjusted to reflect a fund shift that was not accounted for in the Finance Letter. **No issues have been raised regarding these two recommendations.** The LAO concurs with them.

Third, it is recommended to approve two pieces of language, crafted by the LAO after discussions with staff of both houses, to assure fiscal accountability and transparency. **The two pieces of language are as follows:**

- **Add Section 13343 to the Government Code as follows:**

(a) The Department of Finance shall revise the Governor's budget documents display for the state Department of Public Health to include a display of the supplemental local assistance appropriation summary, including actual past year, estimated current year, and proposed budget year expenditures for each branch in the department.

(b) No later than January 20, the Department of Public Health shall annually provide expenditure information for actual past year, estimated current year, and proposed budget year for the following: (1) Proposition 99, (2) statewide AIDS/HIV programs, (3) AIDS Drug Assistance Program, (4) Title V Maternal, Child, and Adolescent Health Grant funds, (5) Women, Infants, and Children Supplemental Nutrition Program, (6) Health Resources and Services Administration Bioterrorism Grant funds, and (7) Centers for Disease Control and Prevention Public Health Emergency Preparedness Grant funds.

- **Supplemental Report Language**

No later than January 20, the Department of Public Health (DPH) shall annually provide a vacancy report effective December 1 of the previous calendar year to the Joint Legislative Budget Committee and the chairs of the fiscal committees in both houses. This report shall identify both filled and vacant positions within the DPH by center, division, branch, and classification.

Fourth, it is recommended to restore funding for a **total of 12 positions** that have been redirected due to the department's split. Eleven of these positions are within the DPH and one is within the DHCS. This restoration can be done using existing special fund reserves without needing any fee increases. This funding restoration would help mitigate the adverse programmatic effects of redirecting staff (mainly from program to administrative functions) to establish the new department. **The positions and their funding sources are as follows:**

Branch	Description	Cost & Fund Source
Food, Drug & Radiation	Associate Health Physicist	$96,000 Radiation Control Fund
Food, Drug & Radiation	Associate Health Physicist	$96,000 Radiation Control Fund
Drinking Water—Field Ops	Associate Sanitary Engineer	$112,000 Safe Drinking Water
Drinking Water—Field Ops	Office Technician	$47,000 Safe Drinking Water
Environmental Control	Associate Safety Engineer	$112,000 Childhood Lead Prevention
Communicable Disease	Office Technician	$47,000 Clinical Lab Improvement
Children's Medical (Dept of Health Care Services)	Management Services Technician	$55,000 Clinical Lab Improvement
Women, Infants & Children	Office Technician	$47,000 Federal Funds
Genetic Disease	Associate Governmental Program Analyst	$77,000 Genetic Disease Testing
Food, Drug & Radiation	Program Technician II	$50,150 Radiation Control Fund
Drinking Water	Office Technician	$53,759 Safe Drinking Water
Primary Care & Family Health	Associate Governmental Program Analyst	$80,166 Federal Funds
TOTAL		**$873,075**

A thoughtful and deliberate transition from the current structure to the new reorganization configuration is crucial to the success of the reorganization. **A poorly executed reorganization could potentially handicap the new departments unnecessarily.** Senate Bill 162 (Ortiz) contained legislative intent language to have the department split be budget neutral, resulting in no increases to the General Fund or other state funds. However, it was not known at that time what the impact of the reorganization would be—57 new positions needed for administration and the programmatic centers, the need for change management consultants and $5 million in expenditures that would have to be absorbed. Adoption of this recommendation would *not* result in new fees or fee increases or affect General Fund expenditures. It would very modestly mitigate the adverse programmatic effects of redirecting staff to establish the new department.

Questions. The Subcommittee has requested the Administration to respond to the following questions.

1. **DPH**, Please provide a *brief* update regarding the status of having a fully operational Department of Public Health as of July 1, 2007.
2. **DPH**, Please provide a brief summary of any *key* fiscal changes being proposed.

6. Response to Subcommittee: Discussion of Licensing & Certification Fees

Prior Subcommittee Hearing (April 16th). As discussed in the Subcommittee's April 16th hearing, the Administration is proposing to substantially increase the fees paid by health care providers to be licensed and certified by the Department of Public Health. The Administration's proposed fee increases are attributable to several factors, including the following:

- Administration's proposal to eliminate $7.2 million General Fund from the program and shift these expenditures to the L&C Fund, and thereby increase L&C fees;
- L&C Division staff increases to expand regulatory and oversight functions, L&C survey work, complaint follow-up, administrative support and chaptered legislation;
- Baseline adjustments for labor and personnel, such as employee compensation and retirement, as well as operating expenses; and
- Pro rata adjustment for the L&C Division. (This is a technical adjustment that reflects the Divisions share of the Department of Public Health's portion of funding for pro rata.)

In the April 16th hearing, the Subcommittee took actions regarding appropriations for increased L&C Division staff to expand regulatory and oversight functions. In addition, the Subcommittee placed $7.2 million (General Fund) on its "check list" for consideration at the May Revision hearing (May 22nd). **However, the over arching issue of fee increases for the various facilities was left "open" to continue conversations with constituency groups and the Administration, and to obtain additional information overall.**

Issues. Several specific issues regarding the calculation of the L&C Fees are presented for discussion at this hearing. These issues are as follows:

1. Unspent Current Year (2006-07) L&C Funds. According to information recently obtained from the Administration, there will be about $7 **million (L&C Fund) in *unspent* Licensing and Certification Funds for 2006-07 due to salary savings** (i.e., existing, funded positions being vacant for a period of time). As such, there is a reserve in the Licensing and Certification Fund that could be used on a *one-time only basis* to *offset* some L&C Fee increases for the budget year. The Legislative Analyst concurs with this observation.

   Specifically, the Legislature approved about 155 total positions last year (i.e., 2006-07) to begin to restore the L&C Division back to its 2000-2001 staffing level. Recall, as referenced in the April 16th hearing, that the Administration had significantly reduced the number of Health Facility Evaluator Nurse positions during 2003, 2004 and 2005, in an effort to meet so called "unallocated" General Fund reductions, even though facilities were indeed paying fees for services; however, these fees were deposited at that time into the General Fund (i.e., no special fund yet established).

   Though the L&C Division has been assertively recruiting and hiring for the new positions provided by the Legislature in 2006-07, as well as trying to keep existing professional and clinical staff positions filled, there are vacant positions for which L&C Fees are being

paid to support by the various health care facilities. This is generally how the unspent L&C Funds have materialized.

Therefore, Subcommittee staff recommends to recognize $7 million (L&C Fund) of the current-year unspent amount and to utilize these funds on a *one-time only basis* in the budget year to offset L&C Fee increases. Specifically, it is recommended for this one-time only adjustment to be applied in the same manner as was the General Fund subsidy provided by the Legislature through the Budget Act of 2006.

2. Legislative Analyst's Office Recommendation—$400,000 Budget Year Adjustment for Salary Savings. Upon the collective review of the Administration's budget change proposals which were adopted by the Subcommittee in the April 16th hearing, the LAO is recommending a technical adjustment to reduce by $400,000 (Licensing and Certification Fees) to reflect natural salary savings that will occur as part of the hiring process.

   Specifically, the Subcommittee approved an overall increase of 32 Health Facility Evaluator Nursing positions for the L&C Division through the various budget change proposals. The Administration's budget assumes that all of these positions will be hired and filled by July 1, 2007. Since this will *not* occur, the LAO recommends a technical adjustment that assumes a *one-time only savings* which assumes that a few of the positions will be filled by October versus July. This adjustment would be applied across those health care facilities for which the said positions were originally applied to in the budget change proposal. This adjustment would very slightly reduce the L&C Fees to be paid by some of the health facilities.

   The Assembly Subcommittee #1 approved this LAO adjustment. **Subcommittee staff recommends approval of the LAO adjustment to conform to the Assembly action.**

3. "Bundled" Groupings of Facilities by Administration Need to be Unbundled. Through discussions between the Administration and clinic constituency groups, it has came to light that various "clinics" are being *grouped* together ("bundled") for purposes of calculating L&C fees, *instead of* spreading the costs of the L&C Division services as applicable, across the *individual* clinic facility types (such as Psychology Clinics, Primary Clinics, Dialysis Clinics, Specialty Clinics—Rehabilitation (for profit and not-for-profit), and Specialty Clinics—Surgical and Chronic. Existing statute (Section 1266 of the Health & Safety Code) directs the Administration to calculate L&C Fees by type of facility as noted, including individual clinic facility type. It should be noted that the Administration has been open about discussing this nuance with clinic provider groups and Subcommittee staff.

   Based on preliminary data calculated by the Administration at the request of the Subcommittee, if the Administration re-calculated the L&C Fees by individual clinic facility types, as noted above, the L&C Fees for community clinics would be considerably reduced.

   Subcommittee staff recommends for the Subcommittee to direct the L&C Division to *re-calculate* the clinics L&C Fees by individual clinic facility types.

Subcommittee staff believes that this is the intent of existing statute as contained in Section 1266.

4. Other L&C Revenues. Through discussions with the Administration, it has come to light that some revenues, though not substantial, are being collected for deposit into the L&C Fund that are not presently being recognized through the L&C Fee methodology as an offset to the L&C Fees charged to facilities. Specifically, revenues obtained by the L&C Division for **(1)** new, initial surveys; **(2)** changes of ownerships—"CHOWs"; and **(3)** late payment fees made by facilities that did not pay their L&C Fees on time.

   Subcommittee staff recommends adopting "placeholder" trailer bill language that would capture these revenues as a part of the overall L&C Fee methodology process as contained within Section 1266 of the Health and Safety Code. The exact language has not yet been fully crafted but Subcommittee staff recommends adopting this in concept in this hearing, with follow-up discussions to be had at the Subcommittee's May Revision hearing on May 22nd.

5. Budget Bill Language to Have the DOF's Office of Statewide Audits & Evaluations (OSAE) Review L&C Methodology. The methodology used to compute the L&C Fees has many nuances and complexities. For example, there is the diversity of the facilities being surveyed; different types of workload requirements for the different facilities; how L&C staff allocate and charge their timekeeping system to develop data to then apply this information back across individual facility types for fee calculations; technical adjustments regarding salary savings and pro rata; and many other aspects.

   The L&C Division is doing its best to identify issues, work with constituency groups, and to check and recalculate figures. **However, because the L&C Division has a substantial workload, and an independent entity would offer a different perspective, Subcommittee staff recommends adopting the following Budget Bill Language for an OSAE review.**

   Item 4265-001-3098 (Department of Public Health, State Support, L&C Fund).

   > "It is the intent of the Legislature that the Office of State Audits and Evaluations (OSAE) review, document, and where appropriate evaluate, the various aspects of the methodologies used by the Department of Public Health (DPH) in the development and calculation of fees for the payment of services provided by the Licensing and Certification Division. The OSAE shall provide their analysis to the DPH by February 1, 2008. This analysis will be available to the public within the standard OSAE release period. The DPH shall reimburse the OSAE for their services in an amount not to exceed $150,000 (Licensing and Certification Funds) and this funding shall be identified within the existing appropriation by the DPH.

6. Keep Issue Open Pending the May Revision. As noted previously, in its April 16th hearing, the Subcommittee placed $7.2 million (General Fund) on its "check list" to be applied to reducing the L&C Fees. It is recommended that if constituency groups have additional issues regarding the L&C Fees to provide them in writing to the Subcommittee as soon as feasible, but by no later than May 11th, for potential consideration at the May

Revision hearing.

Additional Background—Administration's Proposed L&C Fee Increases (January 10th). The chart below summaries the Administration's proposed L&C fee increases by health facility type.

Administration's Proposed Fee Schedule

Facility Type	Fee Category	2006-07 Fee (Budget Act 2006)	Administration's 2007-08 Fee	Difference (+/-)
Referral Agencies	per facility	$5,537.71	$6,798.11	$1,260.40
Adult Day Health Centers	per facility	4,650.02	4,390.30	-259.72
Home Health Agencies	per facility	2,700.00	5,568.93	2,868.93
Community-Based Clinics	per facility	600.00	3,524.27	2,924.27
Psychology Clinic	per facility	600.00	3,524.27	2,924.27
Rehabilitation Clinic (for profit)	per facility	2,974.43	3,524.27	549.84
Rehabilitation Clinic (non-profit)	per facility	500.00	3,524.27	3,024.27
Surgical Clinic	per facility	1,500.00	3,524.27	2,024.27
Chronic Dialysis Clinic	per facility	1,500.00	3,524.27	2,024.27
Pediatric Day Health/Respite	per bed	142.43	139.04	-3.39
Alternative Birthing Centers	per facility	2,437.86	1,713.00	-724.86
Hospice	per facility	1,000.00	2,517.39	1,517.39
Acute Care Hospitals	per bed	134.10	309.68	175.58
Acute Psychiatric Hospitals	per bed	134.10	309.68	175.58
Special Hospitals	per bed	134.10	309.68	175.58
Chemical Dependency Recovery	per bed	123.52	200.62	77.1
Congregate Living Facility	per bed	202.96	254.25	51.29
Skilled Nursing	per bed	202.96	254.25	51.29
Intermediate Care Facility (ICF)	per bed	202.96	254.25	51.29
ICF-Developmentally Disabled	per bed	592.29	701.99	109.70
ICF—DD Habilitative, DD Nursing		1,000 per facility	701.99 per bed	3,211.94 per facility
Correctional Treatment Centers	per bed	590.39	807.85	217.46

As required by statute, the Administration published a list of the above *estimated* fees on February 1, 2007 and has provided additional background to several constituency groups regarding how the fees are calculated. However, since this is the first year for implementation of a new methodology, several organizations are not clear on how their particular health care category of fees was fully determined.

The Administration's proposed elimination of General Fund support and shifting solely to fees is contrary to the agreement crafted through the Budget Act of 2006. The Legislative Analyst's Office made this notation in public testimony provided in the Monday, April 16th hearing. The Administration clearly made a policy choice in the development of the Governor's January budget by accelerating the phase-in of the fee schedule.

7. Implementation of Senate Bill 1379 (Perata and Ortiz) Regarding Biomonitoring

Issue. The Administration proposes a gradual, five-year phase-in of Senate Bill 1379 (Perata and Ortiz) which establishes the groundbreaking, comprehensive CA Environmental Contaminant Biomonitoring Program (Biomonitoring Program). **Specifically, the Administration proposes total expenditures of about $1.5 million (General Fund) as shown in the table below. Most of this funding—about $1.2 million—would be provided to the Department of Public Health (DPH).** (Only the DPH appropriation will be discussed by this Subcommittee. The other two appropriations are within the purview of Subcommittee #2.)

The proposed $1.2 million (General Fund) for the DPH would be used to hire three positions and to contract with the federal Centers for Disease Control (CDC). Two of the positions—a Research Scientist III and an Associate Governmental Program Analyst—would located in the Environmental Health Investigations Branch. The other position—a Research Scientist III (Chemical) would be in the Environmental Health Laboratory Branch. All of the positions would be located at the state's Richmond Laboratory campus.

These staff would be used to: (1) develop a detailed outline of the study design and plans for participant recruitment; **(2)** prepare draft versions of participant questionnaires; **(3)** facilitate the initial meeting of the Scientific Guidance Panel; and **(4)** develop a candidate chemical list and evaluation of appropriate matrix types (blood and/or urine). Laboratory outcomes would include selecting the most appropriate laboratory equipment, evaluating half-lives of candidate chemicals, and determining the method detection limits to allow meaningful measurements of chemicals of concern.

The $847,000 (General Fund) contract would be with the federal CDC to provide for specialized consultative and technical services to assist with: **(1)** developing a study design that will provide a representative sample of California's diverse population; and **(2)** data management procedures for the Biomonitoring Program that will accommodate California-specific content and correspond to those presently used by the federal CDC.

The Administration states that implementation of the Biomonitoring Program will be an intense collaborative effort among several state departments, as noted below, as well as with the University of California and the federal CDC.

Table: Administration's Proposed Funding for Implementation of SB 1379 (Perata and Ortiz)

State Department	2007-08 Funding	Summary Description
Department of Public Health	$1.2 million (General Fund)	3 Positions, as discussed above and $847,000 to contract with the federal CDC.
Office of Environmental Health Hazard Assessment (OEHHA)	$167,000 (General Fund)	3 Positions primarily to support the Science Guidance Panel, develop list of candidate chemicals including a database, and collaborate with others regarding environmental exposures.
Department of Toxic Substances Control (DTSC)	$123,000 (General Fund)	1 Position to plan laboratory purchases, organize the quality assurance and quality control systems for the labs for use in human monitoring.
Administration's Total	**$1.5 million**	

Background—Senate Bill 1379 (Perata-Ortiz), Statutes of 2006. Senate Bill 1379 created the California Environmental Contaminant Biomonitoring Program (Biomonitoring Program) to address the new science of Biomonitoring of the human environment through biospecimens such as urine and blood for the presence of chemicals of concern.

Scientific breakthroughs over the past decade in conjunction with the advances in genome projects and laboratory sciences allow scientists to measure the impact of chemicals on human health. New scientific findings reveal that smaller amounts of chemicals are more likely to disrupt the chemical conversations in our bodies that produce chronic diseases later in life starting with chemical contaminations in utero.

When fully implemented the Biomonitoring Program will do the following:

- Systematically collect, analyze, and archive blood and other human biological specimens from a statistically valid, representative sample of California's population;
- Mesh with existing federal Centers for Disease Control (CDC) Biomonitoring program; and
- Create a reliable database to be used as a foundation for future health-based scientific research.

The Biomonitoring Program will provide data allowing state scientists and regulators to evaluate existing environmental programs, identify and prioritize emerging environmental health issues, and provide a solid scientific basis for future policy and budgetary decisions.

Specifically, the findings from the Biomonitoring Program will be used to:

- Determine baseline levels of environmental contaminants in Californian's blood and other biological samples;
- Establish trends in levels of these contaminants in people over time; and
- Assess the effectiveness of public health efforts and regulatory programs to reduce exposures of Californians to specific chemical contaminants.

Background—Scientific Guidance Panel. SB 1379 (Perata and Ortiz) **created a nine-member external Scientific Guidance Panel (Panel) comprised of experts from the University of California and other academic institutions.** Five members will be appointed by the Governor, two members by the Speaker of the Assembly and two members by the Senate Rules Committee. All members of the Panel are to be appointed by no later than September 2007.

Panel members are to include scientists with expertise in public health, epidemiology, biostatistics, environmental medicine, risk analysis, exposure assessment, developmental biology, laboratory sciences, bioethics, and maternal and child health with a specialty in breastfeeding.

The Panel will recommend chemicals for inclusion in the Biomonitoring Program using criteria specified in SB 1369, starting with substances in the federal Centers for Disease Control (CDC) Biomonitoring program. The Panel will be staffed and supported

by OEHHA, with assistance from the DPH, as noted in the table above.

Background—Federal Center for Disease Control (CDC) Efforts. The federal CDC has administered four Biomonitoring tests and has issued three reports on these results with a four report to be released in 2007. The federal CDC has made a commitment to California to provide technical assistance, as noted by the contract funds contained in the DPH proposal and some in-kind assistance as well.

Subcommittee Staff Recommendation—Accelerate the Administration's Phase-In. As noted above, the Administration proposes a phased-in approach over a five-year period, with 2007-08 being the first year and being solely devoted to planning efforts.

However, due to the urgent need to establish a state baseline survey in a timelier manner, and to proceed to collect biospecimens for analysis in this effort, **it is recommended to augment the DPH's proposal to include an additional $2.2 million (General Fund).**

This augmentation would be used to support 4 additional staff and to purchase laboratory equipment for the first year of implementation. Specifically, the following positions would be added:

- Research Scientist Supervisor II
- Research Scientist Supervisor I
- Two Research Scientist II's
- Associate Governmental Program Analyst

The laboratory equipment purchases would include the following, along with assorted technical supplies for the samples:

- Coupled Plasma Mass Spectrometry
- High Performance Liquid Chromatography
- Liquid Chromatography Tandem Mass Spectrometry
- Gas Chromatograph Mass Spectrometry

By hiring additional scientific staff now and by purchasing equipment, the DPH can work closer with the federal CDC and the Scientific Guidance Panel to establish laboratory protocols for the test design, field sampling and implementation. Specifically, staff would (1) conduct systems testing for the equipment and the range of chemicals and biospecimens to be tested; (2) validate analytical methodologies for chemical classes, (3) develop and test sample tracking and the archiving of protocols and procedures; (4) establish quality assurance and quality control in the laboratories; (5) write the standard operating procedures and manuals for the program; and (6) write the Memorandum of Understanding with the federal CDC for the training and laboratory implementation at the Richmond Laboratory.

Questions. The Subcommittee has requested the Administration to respond to the following questions.

1. DPH, Please provide a brief summary of the budget request and how the Administration envisions its five-year phase-in process.

8. Foodborne Illness—Request for State Staff and Research Funds

Issue. The Department of Public Health (DPH) proposes **an increase of $2.1 million (General Fund) to fund nine positions, $215,000 in equipment, and $670,000 in contract expenditures to investigate foodborne illnesses and foodborne outbreaks.**

The DPH states that an expansion of their existing efforts is needed because they do not have enough staff in their "Emergency Response" unit. The "Emergency Response" unit within the Food and Drub Branch of the DPH conducts investigations of foodborne illnesses. Presently there is one team consisting of two investigators and one scientist.

The requested nine positions would establish three *additional* teams of investigators, scientists, laboratorians, and administrative support to provide emergency outbreak investigation capacity. The positions would**: (1)** coordinate with local, state and federal health agencies; **(2)** investigate foodborne illness; **(3)** conduct environmental and trace back investigations; **(4)** provide effectiveness checks on recalled commodities; and **(5)** work with affected industries to implement preventive changes.

The requested positions include the following:

- Food & Drug Branch—7 Positions. These positions include an Associate Governmental Program Analyst, a Research Scientist II, a Research Scientist III, and a Research Scientist V, a Senior Food & Drug Investigator, and two Food & Drug Specialists.

    - *Associate Governmental Program Analyst*. This position would maintain current records of recalls and investigations in a web-based database accessible to county environmental and public health officers, act as a liaison with county health jurisdictions, provide logistical support during outbreaks and set-up educational conferences.

    - *Research Scientist II.* This position would provide food safety expertise and support during food emergency response activities, capture and analyze data relevant to the investigation (e.g., water sources and quality, grower identification, location of livestock), maintain and analyze databases from previous investigations and provide input into sampling plans.

    - *Research Scientist III.* This position would serve as scientific advisor and assist lower-level scientists providing food safety expertise during food emergency response activities, including developing sampling plans; reviewing, and summarizing investigative findings including trace back and trace forward information.

    - *Research Scientist V—Epidemiology.* This position would provide scientific leadership and epidemiologic expertise in food emergency response activities. Coordinates investigations, findings, and technical reports with federal, state, and local agencies. Plans, organizes, and directs complex studies to determine the causes of food contamination, evaluates each investigation and provides recommendations on improving emergency responses during intentional and unintentional food contamination events.

- *Senior Food Investigator.* This position would respond to and investigate outbreaks; review documents received during foodborne illness outbreaks; contact firms to obtain complete incoming product records; processing records; perform environmental investigations; conduct enforcement actions against non-compliant firms; determine disposition of products, and provide information to local health jurisdictions. (This is a peace officer classification.)

- *Food & Drug Program Specialists (Two).* These positions would develop standard investigation procedures and technical report formats; train industry on emergency response procedures for quickly providing information to the DPH during an investigation; train local health officers; coordinate notification to local health officers; analyze data to determine gaps in statute or regulations; and oversee complex enforcement actions against non-compliant firms. These positions will deploy during outbreak events. (These are peace officer classifications.)

- Food & Drug Laboratory Branch—2 Positions. These positions include a Research Scientist II, and a Research Scientist IV.

  - *Research Scientist II.* This position would perform laboratory testing of microbiological and toxicological agents in various food products, assist with training on collection and processing of laboratory samples, and enter and report data.

  - *Research Scientist IV.* This position would provide oversight for the laboratory testing of complex microbiological or toxicological agents in various food matrices; cooperate with and provide technical assistance to local agencies; and develop a training program for collection and processing of laboratory samples in foodborne illness outbreak investigations.

The DPH is also requesting the following additional resources in their request:

- $215,000 one-time only for the following:
  - $90,000 for three vehicles to be used by the investigators;
  - $40,000 for ongoing service contracts for maintenance and repairs to the vehicles, shooting range qualifications and training for peach officer classifications
  - $80,000 to purchase three portable satellite dishes for each field team and field grade laptops and satellite phones for each team member; and
  - $45,000 for laboratory equipment including freezers, refrigerators, incubators, microscope and autoclaves.

- $170,000 for communication systems operations as follows:
  - $90,000 for a contract for satellite imagery, aerial photography, and geographic information system (GIS) consultant to provide mapping and related services;
  - $50,000 to contract for technical consultation and services to support the emergency response early warning message system used to send health alerts and recall notices to manufacturers, retailers, local jurisdictions and other entities;

- $30,000 to contract for satellite communications/internet access to provide rapid communications at remote locations during environmental investigations; and
- $20,000 for laboratory supplies to purchase media, reagent powders, and disposable laboratory items such as Petri dishes and test tubes.

- $500,000 for an interagency agreement with University of California at Davis to support basic and applied research via Request for Proposals (probably two to four proposals/awards) in the following areas:
  - Conduct field studies to identify sources and vectors for E. coli in the environment and factors that affect the degree and extent of contamination of leafy greens in the field or in processing locations;
  - Identify mitigation strategies and technologies from planting to retail to reduce levels of E. Coli and other enteric pathogens both on and in leafy greens;
  - Determine the potential for the internalization of E. Coli into leafy greens tissue during the growth of plans and their subsequent harvesting, cooling, processing and transport;
  - Access the impact of transport practices and conditions on the survival and growth of leafy greens contaminated with E. Coli; and
  - Determine the ability of E. Coli and other enteric pathogens to survive composting processes as currently required and the potential for multiplication of the surviving pathogens in composted materials in the fields under optimal conditions.

Background—Responsibilities for Food Safety. The Food and Drug Branch within the Department of Public Health (DPH) is responsible for ensuring that certain foods are safe, are not adulterated, misbranded, or falsely advertised. As such, the DPH insects about 5,500 food processors and distributors in California, and also investigates outbreaks and incidents of foodborne illness.

The DPH has the authority to take all steps necessary to investigate foodborne illnesses, including inspecting food processors and obtaining and reviewing their records, reviewing growing and harvesting practices on farms, and embargoing contaminated products.

The DPH works closely with the Federal Food and Drug Administration (FDA) when investigating interstate foodborne illness outbreaks. To facilitate investigations, the DPH and FDA have created the **California Food Emergency Response Team (CalFERT**), a specially trained group of federal and state staff with expertise in farm food safety investigations whose members jointly conduct investigations and share all related records and reports.

Other state departments involved in food safety include the following:

- CA Department of Food & Agriculture. This department ensures the safety of milk and dairy foods and meat and poultry products exempt from federal inspection.
- Department of Pesticide Regulation. This department samples fresh product to test for pesticide residue.

- University of California. The UC system conducts research on food safety issues.

Legislative Analyst's Office Recommendation—Reduce Proposal. The LAO recommends a reduction of $1.5 million (General Fund) by deleting five of the requested nine positions for the Emergency Response Unit, reducing related equipment and operating expenses, and eliminating the $500,000 that was to be provided to the UC system for research.

Specifically, the LAO would *approve* a Senior Food & Drug Investigator, a Food & Drug Specialist, a Research Scientist, and a Food & Drug Laboratory Scientist to add *one* more complete team (for an overall total of two teams versus the Administration's total of four teams), plus laboratory support.

The LAO states that since the DPH already regulates and routinely inspects food processors for sanitary conditions, and as such, it should be able to use this expertise on an as needed basis during outbreaks. In addition, the LAO does not believe that the other two positions for administrative and laboratory support are justified on a workload basis since only four positions would be added (i.e., under the LAO recommendation).

In addition, the LAO notes that $4.6 million in contributions were recently provided to the University of Davis to specifically conduct produce safety-related research regarding spinach and lettuce, as well as other produce and fruits.

Subcommittee Staff Recommendation—Modify Proposal. Subcommittee staff concurs with the LAO that the full DPH augmentation—to add three more teams in 2007-08—is not warranted based on workload.

However, it is recommended to approve the other requested Food & Drug Specialist position to **(1)** provide training to industry to establish procedures to enable firms to quickly provide information to the DPH in the event of contamination; **(2)** provide training to local health jurisdictions regarding outbreaks, reporting and follow-up; and **(3)** assist with tracking foodborne illness information (including distribution information and product recall information), and reporting writing as necessary.

Second, Subcommittee staff concurs with the LAO regarding the elimination of the $500,000 (General Fund) for the UC system to conduct research. Not only have contributions recently come forward specifically regarding produce research, the UC system has $280 million (General Fund) within their budget arena for research, as well as the ability to obtain federal funds, seek grants from foundations and to obtain other donations and contributions.

In addition, the state Department of Food and Agriculture has recently provided $500,000 to UC Davis for this purpose, and UC Davis also recently directed $150,000 within their budget towards leafy green research as well.

Questions. The Subcommittee has requested the Administration to respond to the following questions.

1. DPH, Please provide a brief update regarding the present status of investigations being conducted in California regarding the E. coli outbreaks related to Spinach and Lettuce.

2. DPH, What short-term steps are presently being taken by the DPH to help ensure public safety?
3. DPH, Please describe the budget request, including the need for the positions and the request for the research funds.
4. DPH, Please describe how the research funds will be awarded, and how the research findings will be available to the Legislature and the public?

D. ISSUES FOR DISCUSSION—Department of Mental Health (DMH)

1. Continued Implementation of Proposition 63---Request for State Support

Issue: The Subcommittee is in receipt of a Finance Letter requesting an augmentation of $17.8 million (Mental Health Services Fund) in 2007-08 for state support, primarily for the DMH, related to continued implementation of the Mental Health Services Act—Proposition 63 of 2004. The details of this request are provided below.

It should be noted that Mental Health Services Act local assistance funding, primarily provided to County Mental Health Plans, is *continuously appropriated* and is therefore, *not* subject to an annual budget appropriation. Whereas all state administrative activities *are* indeed subject to an annual budget appropriation.

Approval of the proposed $17.8 million (Mental Health Services Fund) augmentation for the DMH would bring the department's total state support expenditures for the Act's implementation to $34.4 million (Mental Health Services Fund), with a total of 174 positions. Table 1 below displays the DMH's *total* proposed state support budget for this program.

Table 1: Department of Mental Health's (DMH) Proposed State Support Funding

Area of Expenditure (MHSA Funds)	2005-06	2006-07	Proposed Increase (Finance Letter)	Total 2007-08 (As of April)
Positions at DMH	89.5 positions	106 positions	109.2 positions	174 positions
Personal Costs	$6 million	$8.1 million	$7.7 million	$14.3 million
Operating Expenses	$1.4 million	$2.3 million	$2.1 million	$6.3 million
Subtotal	**$7.4 million**	**$10.4 million**	**$9.8 million**	**$20.6 million**
Contracts	**$9.4 million**	**$11 million**	**$8 million**	**$13.8 million**
TOTALS	**$16.8 million**	**$21.4 million**	**$17.8 million**	**$34.4 million**

(**Footnote**: It should be noted that the 109.2 positions consist of 63.2 new positions and conversion of 46 limited-term positions to permanent status. Therefore, the total number of positions for 2007-08 if the Finance Letter is approved would be 174 positions.)

Specifically, the augmentation of $17.8 million for state support would be used to fund the following:

- A total of 109.2 positions which consist of 63.2 new positions and conversion of 46 limited-term positions to permanent status for expenditures of about $7.7 million (Mental Health Services Act Funds); (Please see **Table 2** *below* for more specifics.)
- $8 million (Mental Health Services Act Funds) for consulting and professional contracts; and
- $2.1 million (Mental Health Services Act Funds) in operating expenditures, including $813,000 for in-state travel and $39,000 for out-of-state travel.

Table 2, below, provides a display of the increase of 109.2 positions as proposed in the Finance Letter. These positions, coupled with existing DMH positions, would bring the total for 2007-08 for implementation of the Mental Health Services Act to 174 positions (as shown in Table 1, above). As noted in the table below, 63.2 positions within the DMH would be "new" positions.

Table 2—Summary of *Finance Letter* Augmentation 0f 109.2 Positions

Division/Branch	Number of Positions
1. Department of Mental Health (DMH)	**100.2 Total Positions**
• Mental Health Services Act—Program Support	4.0
• Systems of Care Unit	15.2
• Mental Health Services Act Unit	9.0
• Office of Multicultural Services	2.0
• Information Technology	14.0
• Administrative Support	19.5
Subtotal "New" Positions for DMH	**63.2 Positions**
• Existing Limited-Term Converting to Permanent	37.0 Positions
2. Mental Health Services Act Oversight Commission (OAC)	**9.0 Total Positions**
• Existing Limited-Term Converting to Permanent	6.0
• Re-establish position authority (Technical adjustment)	3.0

The DMH states that the continued implementation of the Mental Health Services Act (Act) requires additional resources in the following areas:

- Staff and support to continue an extensive and enhanced statewide stakeholder process;
- Staff for ongoing policy and program design and implementation including the development of program requirements for all Act components and the corresponding regulations;
- Staff for ongoing local Act integrated plan reviews and related technical assistance to counties;
- Staff for the DMH's Office of Multicultural Services for ongoing and increasing activities to further infuse cultural competence throughout implementation of the Act for an increasingly diverse California and to provide effective performance outcomes and accountability;
- Staff for the Mental Health Services Oversight and Accountability Commission (OAC);
- Staff for the CA Mental Health Planning Council; and
- Administrative support for the DMH to support new staff and expanded functions.

Background—Mental Health Services Oversight & Accountability Commission (OAC). The Mental Health Services Oversight and Accountability Commission (OAC) is established to implement the Act and has the role of reviewing and approving certain county expenditures authorized by the measure. Members of the OAC are appointed by the Governor, Speaker of the Assembly, and the Senate Rules Committee.

Through the Executive Director of the OAC (Ms Jennifer Clancy), the OAC adopted a two-year work plan that provides a road map to effectively implement the OAC's statutory responsibilities. **Key responsibilities of the OAC include the following:**

- Provide the vision, leadership, and oversight necessary to prevent mental illness from becoming severe and disabling and transform the public and private systems charged with providing services, care, and support to California's living with mental illness.
- Ensure public *transparency* in all aspects of the Mental Health Services Act (Act) implementation, including planning, implementing, evaluating, and program and quality improvement.
- Advise the Governor and Legislature regarding actions the state may take to improve care and services for individuals experiencing mental illness.
- Provide oversight over the Act and ensure accountability to the intent and purpose of the Act through: **(1)** review and comment on *all* county plans for following the components of the Act; *and* **(2)** review and approve *all* county program expenditures using Mental Health Services Funds.
- Oversee the implementation of the Act's (1) Part 3—Community Services and Supports; (2) Part 3.1—Education and Training; (3) Part 3.2—Innovative Programs; and (4) Part 3.6—Prevention and Early Intervention.
- Identify critical issues related to the performance of County Mental Health programs and refer the issues to the Department of Mental Health
- Ensure funding from the Act leads to the intended outcomes of the Act.
- Develop and promote a statewide policy agenda that promotes a public mental health system prepared to reduce the long-term adverse impact on individuals, families, and state and local budgets resulting from untreated mental illness.

Background—Summary of Key Aspects of Mental Health Services Act (Proposition 63 of 2004), including Local Assistance Funding. The Mental Health Services Act (Act) addresses a broad spectrum of prevention, early intervention and service needs and the necessary infrastructure, technology and training elements that will effectively support the local mental health system. It is intended to expand mental health services to children and youth, adults and older adults who have severe mental illnesses or severe mental health disorders and whose service needs are not being met through other funding sources (i.e., funds are to supplement and not supplant existing resources).

Most of the Act's funding will be provided to County Mental Health programs to fund programs consistent with their approved local plans. The Act provides for a *continuous appropriation* of the funds to a special fund designated for this purpose.

The Act requires that each County Mental Health program prepare and submit a three-year plan which shall be updated at least annually and approved by the Department of Mental Health (DMH) after review and comment by the Mental Health Services Oversight and Accountability Commission (OAC).

The Act imposes a 1 percent income tax on personal income in excess of $1 million. The Act is projected to generate (i.e., revenues) about $1.363 billion in 2005-06, $1.528 billion in 2006-07, and $1.694 billion in 2007-08.

Table 3 below displays the Administration's January 2007 projection with respect to available Proposition 63 "receipts" (i.e., cash available). As noted in the table, *presently*, the cash receipts are above the original estimate as projected in the Proposition as forecasted in 2005. These local assistance funds are continuously appropriated as required by Proposition 63. As such, unexpended funds from one year roll forward to the next year and are available for expenditure to meet the requirements of the Proposition.

Table 3: Administration's January 2007 Forecast of Available Proposition 63 Funds

Proposition 63 Funds	**2004-05**	**2005-06**	**2006-07**	**2007-08**
Original Estimate (2005)	$254 million	$683 million	$690 million	$733 million
January 2007 Estimated Receipts	$254 million	$906 million	$992 million	$1.523 billion

The six components and the required funding percentage specified in the Act for 2004-05 (initial implementation) through 2007-08 are shown in the table below.

Table 4: Percent Funding by Component as required by the Act

Six Component of MHSA Act	**2004-05**	**2005-06**	**2006-07**	**2007-08**
Local Planning	5%	5%	5%	5%
Community Services & Supports	0	55%	55%	55%
Education & Training	45%	10%	10%	10%
Capital Facilities & Technology	45%	10%	10%	10%
State Implementation/Admin	**5%**	**5%**	**5%**	**5%**
Prevention	0	20%	20%	20%
TOTALS	100 %	100 %	100 %	100 %

Table 5: Administration's Proposed *Expenditures* by Component *(January)*

Six Components of Mental Health Services Act (MHSA)	2005-06 (Actual)	2006-07 (Estimated)	2007-08 (Projected as of January)
Local Planning	--	--	--
Community Services & Supports	$153.3 million	$494.4 million	$540.3 million
Education & Training	--	--	$294.8 million
Capital Facilities & Technology	--	--	$294.8 million
Prevention	--	--	$363.5 million
TOTAL for Local Assistance	**$153.3 million**	**$494.4 million**	**$1.493 billion**
TOTAL for State Implementation (Including all Departments)	$18.2 million	$23.5 million	$37.8 million
TOTAL Overall	**$171.5 million**	**$517.9 million**	**$1.531 billion**

It should be noted that the funds displayed above in Table 5, Proposed Expenditures, will be updated at the May Revision to reflect increased expenditures as approved by the Mental Health Services Act Oversight and Accountability Commission (OAC). This includes substantial funds to be expended on housing, as well as additional funds to be expended on education and training, and prevention and early intervention.

The following descriptions outline the various local assistance components to the Act.

- Local Planning (County plans): Each county must engage in a local process involving clients, families, caregivers, and partner agencies to identify community issues related to mental illness and resulting from lack of community services and supports. **Each county is to submit for state review and approval a three-year plan for the delivery of mental health services within their jurisdiction.** Counties are also required to provide annual updates and expenditure plans for the provision of mental health services.
- Community Services and Supports. These are the programs, services, and strategies that are being identified by each county through its stakeholder process to serve unserved and underserved populations, with an emphasis on eliminating racial disparity.
- Education & Training. This component will be used for workforce development programs to remedy the shortage of qualified individuals to provide services to address severe mental illness.
- Capital Facilities and Technology. This component is intended to support implementation of the Community Services and Supports programs at the local level. Funds can be used for capital outlay and to improve or replace existing information technology systems and related infrastructure needs.
- Prevention & Early Intervention. These funds are to be used to support the design of programs to prevent mental illness from becoming severe and disabling.

Legislative Analyst's Office Recommendation—BBL and Limited-Term Positions. The LAO has two concerns with the DMH regarding their implementation of Proposition 63 (The Mental Health Services Act).

First, the process for reviewing the County Mental Health Plans three-year plans and contract amendments as designed by the DMH has been implemented in such a way as to generate significant workload for *both* the state and counties. It is unclear if all of the detailed reporting by counties, and review by the DMH is necessary to comply with the Mental Health Services Act. **Second,** the reporting requirements placed upon the counties and review protocols used by the DMH could potentially impede the timely flow of the funds to counties.

Therefore, the LAO recommends for the Subcommittee to adopt Budget Bill Language to direct the Office of State Audits and Evaluations (OSAE) within the Department of Finance to conduct an audit to evaluate specific aspects of the DMH's administration of the Proposition 63 Funds. It should be noted that the OSAE is also doing considerable work at the DMH presently regarding their EPSDT Program, San Mateo Pharmacy & Laboratory Project, Mental Health Managed Care and overall fiscal operations. As such, OSAE will have a command of the DMH operations to complete this work.

The LAO's proposed Budget Bill Language is as follows:

"It is the intent of the Legislature that the Office of State Audits and Evaluations (OSAE) review specific aspects of the administration of the Mental Health Services Act (MHSA) by the Department of Mental Health. The OSAE shall examine the following: **(1)** the extent to which DMH's review process of county mental health program and expenditure plans is consistent with the MHSA; **(2)** how the DMH protocols for the review of county mental health program and expenditure plans could be adjusted to improve departmental efficiency, and **(3)** appropriate measures that could be taken by the DMH to ensure that counties receive MHSA funds in a timely manner. The OSAE shall report its findings June 1, 2008 to the Chair of the Joint Legislative Budget Committee and the chairs of the fiscal committees of both houses of the Legislature."

It addition, the LAO recommends to make the 14.5 positions, requested by the DMH in the Finance Letter associated with reviews of county plans, two-year limited-term. This would include the eleven positions requested for the Systems of Care County Support Branch, and the 3.5 positions for the Administrative Support Contracts Office. The LAO believes that the OSAE audit will provide additional information on whether these positions merit approval on a permanent basis.

Subcommittee Staff Recommendation—Modify. **First**, it is recommended to adopt *both* of the LAO recommendations for the Budget Bill Language and the limited-term positions. Subcommittee staff concurs that OSAE can provide constructive assistance with these issues.

Second, it is recommended to increase by $895,000 (Mental Health Services Act Funds), above the Finance Letter, for the Mental Health Services Oversight and Accountability Commission (OAC) by **(1)** providing an additional six Staff Mental Health Specialist positions; and **(2)** increasing the contracts appropriation.

The additional 6 positions and contract funds are necessary to meet the following core requirements of the OAC:

- Provide oversight over the Act and ensure accountability to the intent and purpose of the Act through: **(1)** review and comment on *all* county plans for following the components of the Act; *and* **(2)** review and approve *all* county program expenditures using Mental Health Services Funds.
- Oversee the implementation of the Act's (1) Part 3—Community Services and Supports; (2) Part 3.1—Education and Training; (3) Part 3.2—Innovative Programs; and (4) Part 3.6—Prevention and Early Intervention.
- Identify critical issues related to the performance of County Mental Health programs and refer the issues to the Department of Mental Health.

Specifically, these positions will conduct the following key activities:

- Serve as lead in Prevention/Early Intervention and Innovation review teams. This includes reading all County Plans and reviewing them based on requirements and expenditure needs, and making recommendations to the Commissioners on the OAC.
- Craft, along with the Department of Mental Health, the requirements for "on-site" county review teams. This includes assisting in the development of the team protocol as well as participating in the teams and assessing Mental Health Services Act funded programs.
- Conduct analysis of early performance outcomes of Community Services and Supports component of the Act.
- Actively engage in the stakeholder process for the Prevention/Early Intervention and Innovation component.
- Actively engage in reviewing and providing comment on Workforce Development, and Capital and Information Technology components of the Act.

The contract funds (about $320,000) would be used to: (1) contract with the Department of Justice to have independent legal counsel (i.e., from the DMH); (2) contract with the University of California at Davis for developing a statewide surveillance system as required by the Act; and (3) contract with the Center for Collaborative Policy at CA State University at Sacramento to assist in providing technical assistance toward development of policy collaboration with other organizations having statutorily mandated oversight responsibilities of Mental Health Services Act Funding.

If this recommended increase is approved in addition to the Finance Letter, the total budget for 2007-08 for the Mental Health Services Act Oversight and Accountability Commission (OAC) would be about $3.2 million (Mental Health Services Act Funds), including contract funds and funds for 20 staff positions.

Questions. The Subcommittee has requested the Administration to respond to the following questions.

1. **DMH**, Please provide a *brief* status update on the implementation of Proposition 63.
2. **DMH**, Please provide a *brief* summary of the Finance Letter.
3. **Ms Clancy, Executive Director, OAC**, Please provide your perspective of the role of the OAC and the work which needs to be completed.

2. CA Health Interview Survey (CHIS)—Vital Tool for Research and Reforms

Issue. There is constituency interest in expanding the California Health Interview Survey (CHIS) for 2007 to support three *additional* survey components that would facilitate the implementation of the Proposition 63—the Mental Health Services Act (Act). These three additional survey components are *not* presently being funded under the existing contract with the Administration.

The three additional survey components at issue include the following:

- Collect information on the mental health status of adolescents in California. This information has not yet been comprehensively obtained and would facilitate implementation of the Act.

- Collect information regarding "co-morbidity" in the adult and adolescent CHIS interview, including the use of alcohol and tobacco (adults and adolescents) and illegal drug use (adolescents). The measurement of these co-morbidity factors is essential to track and implement the Act's emphasis on prevention and early intervention.

- Increase the sample size for CHIS in order to obtain sufficiently robust data on mental health status, perceived need for mental health services, and utilization of mental health services, as well as the co-morbidities as referenced above. The CHIS sample size is the linchpin that permits disaggregating California's diverse population along numerous, critical dimensions such as race/ethnicity, nativity, age, location (county) and poverty status. Additional funding will ensure an adequate sample to meet the needs of mental health service planners and providers at the state and local levels.

The University of California at Los Angeles Center for Health Policy Research (UCLA Center), where the CHIS researchers reside, presently has a $732,190 (Mental Health Services Act Funds) existing contract with the Department of Mental Health.

Background—Funding for CA Health Interview Survey (CHIS). Funding for CHIS has been provided by a variety of federal, state, and local government agencies, as well as private foundations and other organizations.

Background—CA Health Interview Survey (CHIS). The CA Health Interview Survey (CHIS) is the most comprehensive source of health information on Californians. The survey provides information for the entire state and most counties on a variety of health topics for California's diverse population, focusing on access to health care, health insurance coverage, health behaviors, chronic health problems, mental health treatment, cancer screening and other health issues.

CHIS is the largest state health survey in the United States. It is conducted every two years. The first survey was conducted in 2001. CHIS 2005 completed interviews with 45,659 households, including 43,020 adults, 4,029 adolescents, and 11,358 children. The survey was administered in English, Spanish, Chinese (Mandarin and Cantonese), Korean, and Vietnamese. The 2005 survey also includes comprehensive information on diet and

physical activity, as well as a module on the family history of cancer.

Results and data files from CHIS are available in a variety of ways, including the following:

- Reports, policy briefs, and fact sheets in print and online.
- "Ask CHIS", an easy-to-use online data query system, enables users to conduct their own simple analyses and obtain survey results on health topics, populations groups, and geographic areas. This is a free service.
- Public-use data files and accompanying documentation can be downloaded from the CHIS website at no cost.
- Technical assistance through regional workshops and consultation is available to agencies, community organizations and researchers using CHIS data.
- UCLA Center for Health Policy Research Data Access Center enables researchers to work with confidential files in a secure environment. Programming and statistical consulting services are also available.

CHIS researchers reside within the University of California at Los Angeles (UCLA) Center for Health Policy Research (UCLA Center). CHIS is the largest research program at the UCLA Center. The UCLA Center, established in 1994, is one of the nation's leading health policy research centers. Research at the UCLA Center focuses on eight key areas: (1) health insurance coverage; (2) access to and quality of health care; (3) disparities in health care access and health status based on race, ethnicity, immigration, income and area of residence; (4) women and health; (5) the elderly and their health; (7) American Indians/Alaska Natives and their health; and (8) economics of health care.

Subcommittee Staff Recommendation. It is recommended to increase the Department of Mental Health's contract appropriation to **include an increase of $1 million** ($700,000 Mental Health Services Act Funds and $300,000 reimbursements which are federal funds to be obtained from either the DHS through the Medi-Cal Program or through the Managed Risk Medical Insurance Board's Healthy Families Program). It is estimated that this funding level would meet most of the three objectives, as noted above. The proposed funding also assumes a 30 percent federal match which Subcommittee staff believes should be attainable since some of the mental health issues cross-over into federally supported programs.

Questions. The Subcommittee has requested responses to the following questions from selected constituents.

1. **Dr. Rick Brown, Executive Director, UCLA Center for Health Policy Research**, Please provide a brief summary of how CHIS provides information and how this would facilitate the purposes of the Mental Health Services Act.

3. Administration's Proposed Fence at Metropolitan State Hospital

Issue—January Proposal *&* Changes in Finance Letter. In January, the Administration proposed an increase of $2.9 million (General Fund) for preliminary plans and working drawings in 2007-08 to complete the planning stages for the construction of a secure fence at Metropolitan State Hospital. This original proposal would have constructed two separate security fences which would encircle two buildings on the campus, as well as make other modifications, in preparation for expanding Metropolitan State Hospital to include additional penal code-related patients at the facility.

The DMH states that this "secure fence" project would secure an additional 505 beds overall at Metropolitan.

In a **Finance Letter** received by the Subcommittee on May 1st, the Administration is now deferring the working drawings phase of this original project for a reduction of $1.150 million (General Fund). The preliminary plans phase would still continue. The Administration noted at this time that total estimated expenditures for construction of this project is about $22 million.

Senator Calderon Letter to the Subcommittee *(See Hand Out).* In a letter from Senator Calderon to the Subcommittee, he respectfully requests for the Subcommittee to deny the DMH's request for several key reasons. First, there has been no discussion of this proposal with the greater Norwalk community. It is extremely unsound policy for a state department to proceed with such a highly-community changing proposal without first informing the public.

Second, this proposal would lead to the more than *doubling* of the number of penal code patients who reside at Metropolitan. Presently there are about 460 penal-code related patients which is about 70 percent of Metropolitan's patient population. If 500 more penal code patients were housed at Metropolitan, in essence it would become a de facto correctional facility.

Background—Metropolitan State Hospital. Metropolitan State Hospital is located in the heart of Norwalk, California**. Urban residential areas buttress up against the facility. Due to its location and the design of the facility, it has always had the least number of penal code placements within the State Hospital system and the Legislature in the past has specifically required this limit due to community public safety concerns.**

It is the smallest of the State Hospitals from a bed-capacity standpoint. The patient population in the budget year is estimated to be 688 patients and the patient mix is as follows:

- 248 patients who are Incompetent to Stand Trial (IST's);
- 228 patients who are civilly-committed by the counties;
- 122 patients who are Not Guilty by Reason of Insanity (NGI's);
- 53 patients who are Mentally Disordered Offenders (MDO's)
- 7 patients who are other penal-code categories; and
- 30 patients who are adolescents and are affiliated with the CA Youth Authority.

Background on State Hospitals. The department directly administers the operation of five State Hospitals—Atascadero, Metropolitan, Napa, Patton, and Coalinga. In addition, the DMH administers acute psychiatric programs at the California Medical Facility in Vacaville, and the Salinas Valley State Prison.

Background—Overall Classifications of Penal Code Patients. Penal Code-related patients include individuals who are classified as: **(1)** not guilty by reason of insanity (NGI), **(2)** incompetent to stand trial (IST), **(3)** mentally disordered offenders(MDO), **(4)** sexually violent predators (SVP), and **(5)** other miscellaneous categories as noted.

Constituency Concerns and Proposal For a "Shepard's Hook" Fence. The Subcommittee is in receipt of a letter from the City of Norwalk, who have been in discussions with Senator Calderon's office, Subcommittee staff and the Administration.

The City of Norwalk is seeking a "shepard's hook" fence to be installed around the perimeter of Metropolitan. As noted in Senator Calderon's letter to the Subcommittee, increased security at the facility is needed due to a recent escape from Metropolitan by a penal code patient. In discussions with the Administration, it appeared that they were open to exploring this option, pending any other decisions regarding Metropolitan.

It should be noted that the DMH has made various security improvements at Metropolitan and has been working with the City of Norwalk and Senator Calderon on these issues.

Subcommittee Staff Recommendation—Reject Proposal. It is recommended to reject the Administration's proposal, and to adopt Budget Bill Language to proceed with the "shepard's hook" fence.

The Administration had absolutely no discussions with local community leaders or the Legislature *prior* to releasing this January proposal. Since the first penal code-related patients were housed at Metropolitan, beginning in the mid-1990's, there have been explicit limits expressed by the Legislature due to community concerns as to whom these patients would be (i.e., low-level risk patients, skilled nursing and the like), as well as the number of overall penal code-related patients which would be allowed. The Administration's proposal would substantially change this agreement. Further analysis by the Administration regarding the State Hospital system overall needs to take place.

In addition to rejecting the entire $2.9 million (General Fund) from the budget as proposed, it is recommended to adopt the following Budget Bill Language:

> "The Department of Mental Health shall work with the City of Norwalk, and other interested parties as appropriate, to develop a capital outlay budget package which will address the scope of the shepard's hook fence project at Metropolitan State Hospital. This shall be completed within existing funds as determined by the Department of Finance.

Questions. The Subcommittee has requested the DMH to respond to the following questions.

1. DMH, Please provide brief comment regarding the DMH proposal, and regarding the proposed changes as recommended by Subcommittee staff.

4. Capital Outlay—Problems at Atascadero State Hospital with New Bed Addition

Issue. The Subcommittee is in receipt of a Finance Letter requesting an increase of $6.6 million (Public Construction Bond Funds) to remediate the recent 250-bed addition at Atascadero State Hospital in order to eliminate sources of water intrusion, remove mold in the building, and pursue litigation to recoup project costs. This project will repair all windows and other identified points of water entry, thereby eliminating a potential health risk to staff and patients.

According to the DMH, this building has had a noticeable water leakage problem cine it was first occupied six years ago. Since attempts by the contractor to repair the building have been unsuccessful.

Subcommittee Staff Recommendation--Approve. It is recommended to approve the Finance Letter in order to mitigate the damage, protect patient health and safety, and to maintain the state's asset.

Questions. The Subcommittee has requested the DMH to respond to the following questions.

1. DMH, Please provide a *brief* history of the project and what is being done to fully mitigate any problems.

5. Proposed Reappropriation of Funds for Patton State Hospital Capital Outlay

Issue. The Subcommittee is in receipt of a Finance Letter seeking a reappropriation of $28.982 million (Public Construction Bond Funds) for the construction phase of renovating the admission suite and "Ed Bernath" (EB) Building at Patton State Hospital. In addition, the DMH is requesting an extension of the liquidation period for working drawing funds and the reappropriation of construction funds due to the lack of "swing space" being available on the campus which is needed to relocate patients while the project takes place.

This renovation project combines three projects within the EB Building for construction. The project will upgrade several areas to meet fire, life safety codes, as well as construct an interior environment within the admissions suite that provides for the identified functions of an admission unit. The DMH indicates that the renovations should be completed and patients transferred by the summer of 2011.

It should be noted that the DMH would be required to use General Fund support to pay back about $1.7 million (General Fund) expended to date for the design of this project if the construction funds are reverted. This is due to complexities regarding the sale of the bond and commitments made by the State Public Works Board.

Subcommittee Staff Recommendation--Approve. This project has had difficulty in proceeding over the years due to various reasons. However, there is no other solution that comes to mind other than approving the Administration's Finance Letter to spread the time frame for the project.

Question. The Subcommittee has requested the DMH to provide a *brief* overview of the project and the proposed Finance Letter solution.